# Country of Origin Labeling

COOL

Retail Surveillance Audit Procedures





# **COOL Background**

The Farm Bill and the 2002 Supplemental Appropriations Act amended the Agricultural Marketing Act of 1946 to require retailers to notify their customers of the country of origin of covered commodities beginning on September 30, 2004.



## COOL Implementation Timeframe for Fish and Shellfish

- The Mandatory Country of Origin Labeling of Fish and Shellfish; Interim Final Rule was published in the Federal Register on October 5, 2004.
- The provisions of the Interim Final Rule (IFR) became effective on April 4, 2005 for farm-raised and wild fish and shellfish.



# General Requirements of COOL

for Farm-raised and Wild Fish and Shellfish

- Retailers are required to:
  - Notify their customers of
    - the country of origin and
    - method of production (wild and/or farm raised)
  - Make records available in a timely manner to verify the country of origin and method of production information.



#### Other requirements of the law:

- Any person that supplies a covered commodity to a retailer must:
  - Make available information about the country(ies) of origin and method(s) of production of the covered commodity.
  - Possess or have legal access to records to substantiate the COOL information for 1 year from the date the product is sold.



# Who is required to label covered commodities?

- Retailers
  - Only firms licensed as a retailer under the Perishable Agricultural Commodities Act (PACA) of 1930 are subject to the law and are required to label covered commodities for country of origin and method of production.
  - Currently, there are approximately 4,500 PACA licensees that operate 37,000 retail stores.
  - Butcher shops, fish markets, exporters that are not PACA licensees are exempt from the law.

## What is a covered commodity?

- Covered commodities, under this interim final rule include wild and farm-raised fish and shell fish.
- A covered commodity is excluded from COOL requirements if it is an ingredient in a processed food item.



#### What is a processed food item?

• A processed food item is a retail item derived from fish or shellfish that has undergone specific processing resulting in a change in the character of the covered commodity, or that has been combined with at least one other covered commodity or other substantive food component (e.g., breading, tomato sauce), except that the addition of a component (such as water, salt, or sugar) that enhances or represents a further step in the product for consumption, would not in itself result in a processed food item.

#### What is a processed food item?

Specific processing that results in a change in the character of the covered commodity includes cooking (e.g., frying, broiling, grilling, boiling, steaming, baking, roasting), curing (e.g., salt curing, sugar curing, drying), smoking (hot or cold), and restructuring (e.g., emulsifying and extruding, compressing into blocks and cutting into portions.)

# Examples of processed food items:

- · Cooked shrimp, lobster, or crab.
- Fish sticks, surimi, mussels in tomato sauce, seafood medley, coconut shrimp, soups, stews, and chowders, sauces, pates, salmon that has been smoked, marinated fish fillets, canned tuna, canned sardines, canned salmon, crab salad, shrimp cocktail, gefilte fish, sushi, and breaded shrimp.

## **Markings**

- Country of origin declarations and method of production designations may be:
  - In the form of a placard, sign, label, sticker, band, twist tie, pin tag, or other format that provides country of origin and method of production information.
  - Combined or made separately.
  - In the form of a check box.



# Markings

- Country of origin and method of production information:
  - Must be placed in a conspicuous location, so as to render it likely to be read and understood by a customer under normal conditions of purchase.
  - May be typed, printed, or handwritten provided it is in conformance with other Federal labeling laws and does not obscure other required labeling information.



## **Commingled Items**

 A bulk container (e.g., display case, shipper, bin, carton, and barrel) may contain a covered commodity from more than one country of origin and/or more that one method of production provided all possible origins and/or methods of production are listed.



# **Production Designations**

- Various forms of production designations are acceptable, including:
  - Wild caught, wild, farm-raised, or farmed.
  - Provided it can be readily understood by the consumer and is in conformance with other Federal labeling laws.
- Production designations that are not acceptable include:
  - Ocean caught, caught at sea, line caught, cultivated or cultured.

# **Country Designations**

- Abbreviations and variant spellings that unmistakable indicate the country of origin are acceptable.
- The adjectival form of a name of a country is acceptable provided the name does not appear with other words so as to refer to a kind or species of product.
- Flags or symbols alone may not be used to denote country of origin.
- State or regional label designations are not acceptable in lieu of country of origin labeling.

# **Responsible Authority**

- The USDA, Agricultural Marketing Service, Livestock and Seed Program, Standardization Branch is the responsible authority for enforcement of the COOL regulation requirements.
  - Otherwise known as USDA for the purposes of this presentation.



## **Enforcement Policy**

- COOL regulation requirements will be enforced by retail and supplier surveillance audits conducted by USDA or State employees operating under cooperative agreements between the appropriate State agencies and USDA.
- USDA will develop the procedures for the retail and supplier surveillance audits.
- USDA will select and assign the facilities to be audited.

#### Violations to the Law

- Apparent violations will be referred to USDA for further action, as appropriate.
- Only USDA will be able to initiate enforcement actions against a person found to be in violation of the law.
- The law contains enforcement provisions for both retailers and suppliers that include civil penalties for up to \$10,000 for each violation.



# Corrective Actions and Follow-up Reviews

- The retailer will be provided with a 30day period during which time they must take necessary steps to comply.
- The retailer must submit the corrective actions to address the non-compliance findings to USDA within 30 days from the date of notification.



# **Types of Violations**

#### 1. Failure to Label Product

 It is a violation for a retailer to fail to identify the country of origin and method of production of a covered commodity.

#### 2. Mislabeled Product

 It is a violation for a retailer to incorrectly identify the country of origin and method of production of a covered commodity.



# **Types of Violations**

#### 3. Failure to Maintain Records

 It is a violation for retailers and their suppliers to fail to maintain records that will permit substantiation of country of origin and method of production claims and provide supplier information to permit tracebacks to the firm or entity responsible for initiating the COOL claims.



# **Types of Findings**

- 1. Failure to Label Product
  - 1. Failure to label covered commodities for country of origin.
  - 2. Failure to label covered commodities for method of production
- 2. Mislabeled Product
  - 3. Covered Commodities mislabeled for country of
  - 4. Covered commodities mislabeled for method of production.



## **Types of Findings**

- 3. Failure to maintain records.
  - 5. Failure to maintain records that permit substantiation of country of origin and method of production; and provide supplier information.



## **COOL Reference Documents**

- Federal Register Part IV USDA AMS 7 CFR Part 60 Mandatory Country of Origin Labeling of Fish and Shellfish; Interim Rule, dated October 5,
- Country of Origin Labeling Surveillance Audit Procedures for Retail Facilities, dated July 28,
- · Country of Origin Labeling Compliance Guide, dated July 31, 2006
- COOL Workbook, dated July 28, 2006.
- http://www.ams.usda.gov/cool/index.htm USD



# COOL Retail Surveillance Audit Procedures Light Market Ma





# **COOL Compliance Policy Guide**





#### **COOL Workbook**

- The COOL Workbook is an Excel Spreadsheet Workbook that contains:
  - The COOL Retail Surveillance Audit Worksheet
  - The COOL Retail Surveillance Audit Checklist
  - The COOL Retail Surveillance Audit Information Form
  - The Charges Summary
  - The Non-compliance Letter
  - Printing Tips



## COOL Retail Surveillance Audits

- Audit locations and frequency will be predetermined and assigned to auditors by the USDA.
- Audits will be conducted as specified in the COOL Procedure - Country of Origin Labeling Surveillance Audit Procedures for Retail Facilities, dated July 28, 2006.



# **Responsibilities of Auditors**

- · Auditors shall:
  - Possess and identify themselves with a valid official government issued picture identification.
  - Dress appropriately and conduct themselves in a professional manner at all times.
  - Interact with store officials in a courteous and diplomatic manner.
  - Be observant and thorough while conducting the audit.



# **Responsibilities of Auditors**

- Auditors shall:
  - Limit the scope of the audit to the commodities and requirements covered by the COOL regulation.
  - Conduct an opening and closing meeting with the store officials.
  - Answer any questions and provide information concerning the COOL requirements.



## **Responsibilities of Auditors**

- · Auditors shall:
  - Discuss all findings with the store official during the closing meeting.
  - Consider all information gathered as confidential.
  - Contact the COOL Program Manager with any questions.
  - Forward all findings to the COOL Program Manager.



# Retail Surveillance Audit Procedures

- Prior to conducting the audit:
  - Review the Reference Documents
  - Become familiar with COOL requirements and covered commodities
  - Obtain information about the retail facility to be audited
  - Be prepared to answer questions and to provide information to the facility representatives.

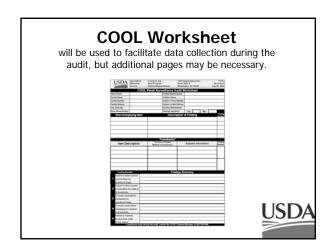
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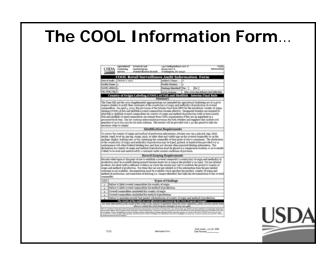
# Retail Surveillance Audit Procedures

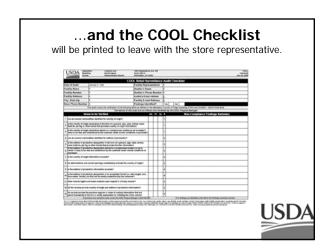
- In the COOL Workbook:
  - Complete the COOL Retail Surveillance
     Audit Worksheet with the available
     information. The data from the Worksheet
     will also transfer to the Information Form
     and Checklist.
  - Print the Worksheet, Information Form and Checklist.



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### **COOL File Naming Procedures**

- Save the COOL Workbook with the following file naming format.
  - Full name of the state that the audit is performed in (no abbreviations).
  - Date that the audit was conducted.
  - Initials of the auditor conducting the audit.
  - Sequential number of audits performed by that auditor in that state for that day.

# USDA

## File Name Examples

- Virginia 07 20 06 LPK 01 The 1<sup>st</sup> audit conducted by LPK in Virginia on 07/20/06.
- Virginia 07 20 06 LPK 02 The 2<sup>nd</sup> audit conducted by LPK in Virginia on 7/20/06.
- Maryland 07 20 06 LPK 01 The 1<sup>st</sup> audit conducted by LPK in Maryland on 7/20/06.
- Don't use any punctuation in the file name.

# USDA

# Retail Surveillance Audit Procedures

- Upon arrival at the retail outlet, the auditor shall:
  - Introduce themselves as a representative of the USDA.
  - Provide official picture identification to the store representative.
  - Request a meeting with the store manager, counter manager or other appropriate official.
  - Conduct a short opening meeting with the store representatives.

# Retail Surveillance Audit Procedures

- If the facility representative refuses to cooperate with the audit:
  - Make every effort possible to complete the audit
  - Ask the representative for his/her name
  - Leave the facility
  - Document the specifics of the incident, including the facility reps name
  - Contact the Cool Program Manager with the information.



#### Retail Surveillance Audit Procedures

 Do not confront an angry, belligerent or non-cooperative facility representative!!



# **Opening Meeting**

- Provide the facility representative with the COOL Information Form.
- Explain the scope and objective for the audit.
  - Scope Country of origin and method of production identification and supporting documentation to verify COOL compliance for covered commodities available for retail sale.
  - Objective To verify the retail outlet's compliance to the COOL regulation requirements.



# **Opening Meeting**

- Provide a short summary of what you will be looking for, and the methods and procedures to be followed during the audit.
- Gather additional information about the store.
  - Verify the store name, number, address, phone number, e-mail, representative's name and contact information.



# **Opening Meeting**

- Answer any questions pertaining to the audit or the COOL regulations.
- Inform the store representative that they are welcome to accompany you during the audit
- Confirm the time and place for the closing meeting.



# **Performing the Audit**

- Review all locations where covered commodities are presented for retail sale including the:
  - Self service counter
  - Fresh and frozen seafood areas
  - Sale counters and promotional display areas



# **Performing the Audit**

- Evaluate if the covered commodities are correctly labeled with country of origin and method of production information.
- Verify that the labels are legible and placed in a conspicuous location, so as to render them likely to be read and understood by a customer under normal conditions of purchase.



## **Performing the Audit**

- Record information on any covered commodities that are not correctly identified in the *Description of Finding* area on the Worksheet.
- Record the appropriate Finding Number adjacent to the Description of Finding



# **Performing the Audit**

- Summarize the finding in the appropriate area of the *Findings Summary* section of the Worksheet.
- Notify the store representative if a possible finding is identified.
  - Request additional information, if necessary, to verify the finding or to determine COOL compliance.

# **Conducting a Traceback**

- Select two covered commodities to conduct an in-store traceback for the purpose of verifying the accuracy of the COOL information.
  - Record identifying information for the selected traceback items on the COOL Retail Worksheet.
  - Record enough information on the Worksheet to enable a traceback to the firm or entity responsible for making the initial COOL claims.



## **Conducting a Traceback**

 If possible, interview the employee responsible for labeling the covered commodities. Ask this individual to demonstrate the system that is used to ensure proper identification of the products.



# **Conducting a Traceback**

 For covered commodities that are prelabeled for country of origin and method of production on the consumer packaging, the COOL information on the package itself is sufficient evidence to establish the commodity's country of origin and method of production information, no further traceback is necessary



## **Conducting a Traceback**

- For covered commodities that are pre-labeled on the master container and subsequently relabeled at the retail outlet, the original label of the shipping container should be observed to verify COOL information.
- If the master container is not available; review bills of lading, shipping manifests, receiving documents, and/or labels saved from the master container. Store logs are acceptable documentation when used in conjunction with other documents that will verify the accuracy of the COOL information for the selected item.



## **Conducting a Traceback**

- For covered commodities that are not prelabeled with COOL information:
  - The documentation must contain information that identifies the retail supplier, the product unique to that transaction by means of a lot number or other unique identifier, the country(ies) or origin and method(s) of production.



# **Conducting a Traceback**

 Records relied upon at the point of sale to establish a covered commodity's country of origin and method of production must be available in a timely manner during normal business hours for as long as the product is on hand.



# **Conducting a Traceback**

- On the Worksheet, document whether the traceback items comply with COOL requirements or....
- If findings are identified:
  - Record all applicable information and the Finding Number in the *Tracebacks* section of the Worksheet.
  - Summarize the non-compliance in the Findings Summary section of the Worksheet.



#### **After the Traceback**

- Prior to the closing meeting, summarize all findings and record this information on the Worksheet.
- Complete the Checklist.
  - Document that all of the *Items to be* Verified have been addressed.
  - Summarize any findings adjacent to the Item to be Verified.



# **Closing Meeting**

- Review all audit documents and explain the determinations made on the COOL Checklist.
- If findings have been identified, provide the store representative with the completed Checklist.
- Answer all questions pertaining to the audit or the findings.

# **Closing Meeting**

- Explain to the store representative that:
  - The audit findings are not official until they are reviewed by the COOL Program Manager.
  - They will receive a letter from USDA requesting submission of corrective actions to address the findings, if applicable.
- Be sure to thank the store officials for their time and cooperation!



# When the audit has been concluded.....

- In the COOL Workbook, complete the COOL Retail Surveillance Audit Worksheet and Checklist with all applicable information.
- Transfer the information from the Worksheet to the Checklist. Summarize the findings using clear, concise statements so that the noncompliance can be easily understood by the COOL Program Manager.
- Fax or e-mail, the completed workbook to the USDA at the designated contact point.

### **COOL Contact Information**

- COOL Program Manager
  - 202-720-4486
- Fax
  - 202-354-5062
- E-mail
  - COOLAudit@usda.gov
- Mailing Address
  - 1400 Independence Ave. SW Room 2607-S Washington, DC 20250



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